\$100,000

HICKORY, N. C., THURSDAY SEPTEMBER 19, 1907, TWELVE-STORY OF CHARLOTAL PENLTY

#### والمارة والمار Famous Case of Southern's Appeal From \$30,000 Fine Argued

Day to Hearing Atguments of Counsel For Southern And State in Noted Case

#### If Railway Loses Appeal Will Be Taken-Court May Not Give Opinion Soon.

Raleigh, N. C., Sept. 17 .- The supreme court of North Carolina devoted today to hearing the argument by counsel for the Southern Railroad Co. and for the state in the noted appeal of the Southern Railway Co. from the \$30,000 fine imposed on the company by Judge Long in Wake court, for violation of the 2 1-4 cent passenger rate. Argument in support of the appeal

was made by Col. W. B. Rodman and Jas. H. Pou for the Southern and by ex-Governor Charles B. Aycock, Hon. E. J. Justice and S. G. Ryan for the state, in support of the findings of the trial judge.

The indictment of the Southern Railway Co. and Agent T. E. Green, the conviction of both, the release of Green on the payment of a nominal fine with the understanding that he would sell no more tickets at an unlawful rate and the imposition of the heavy fine of \$30,000 on the Southern for its persistence in the sale of tickets at the excessive rate, are all fresh in the minds of the reading public as are also the subsequent sensational prosecution of the Southern and Atlantic Coast Line, under the direction of Governor Glenn, whereby the companies were compelled to enter into an agreement whereby the reduced rates would go into effect and the appeals in the state and the United States courts be carried up in due form and as rapidly as possible.

Contentions of the Southern. Broadly stated the contentions of the Southern in the appeal argued today are that neither the bill of indictment, conviction, nor the judgment imposed in this case, can, under the law, be sustained. In their argument today Messrs. Redman and Pou took the position that it is not an indictable offense for a railroad company to arge more than the two and a quarter cent rate in North Carolina for the reason that the act really makes the violation by the agent a misdemeanor and for the railroad merely imposes heavy penalties to be sued for by the parties agrived. In the briefs filed this contention is elaborated at great length and numerous authorities cited.

Another contention is that the fine imposed is not authorized by the statnte and is in conflict with the constitution, and judgment should have been arrested; further that the fine is excessive and in violation of the constitution of the state and judgment for this reason should be arrested.

The contention is also made that upon the whole evidence the defendant railroad company was entitled to the request for instructions to the jury; that the evidence was insufficient to find either the Southern or Agent Green guilty. There is also the contention that the defendant did not have a fair jury to try the case.

Furthermore the Southern contends in the argument presented that when Judge Long refused to continue the various prominent citizens. case or allow the defendant time in which to prepare for the defense and officers and members of the chamber force them to trial within 24 hours af- of commerce, the officers and memter finding the bill, the railroad company was thereby denied due process of law and the equal protection of the laws in violation of the Fourteenth amendment of the constitution of the

Then there is the general and final plea of the unconstitutionality of the and others. 2 1-4 cent passenger rate act in that it is a violation of the Fourteenth amendment to the constitution.

In arguing the unreasonableness of the penalties provided in the act counsel submitted the calculation that in contesting the constitutionality of the act a railroad company such as the Southern would make itself and its agents liable in 30 days time to \$453,-750,000 fines against the company, the same amount against its agents and in addition 10,000 years in jail.

All this argument was in addition to the plea that the whole matter of the application of the new rate act was already pending in the United States supreme court, to test the constitutionality of the act and an injunction issued by the judge against enforcing the act until the constitutionality

was passed upon. Position of Counsel for the State. Much the greater part of the argument submitted by Ex-Gov. Aycock and Mr. Justice was on the issue of the jurisdiction of the circuit court of the United States in which the railroad company undertook to suspend the operation of the act until its constitutionality was passed upon. This jurisdiction the counsel granted citing poration commission and passed this act itself to prevent any injunction as 000,000.

Supreme Court Devoted, to its operation from the federal courts. It is declared also that w attempt is made to restrain attorney general from the enforcement of criminal act than this injunction from the federal court would be against the

Contentions of Both Sides | feet since July 1 last, and the rail-

down that the assumption of jurisdiction by one court, having concurrent jurisdiction with another, does not cut the jurisdiction of the latter court the jurisdiction of the latter court and there must be a plea showing iden-tity of subject matter and parties be-fore there must be abatement in the latter court.

for the state insisted that the findings of the lower court ought to be affirmed. It may be a month or longer before the supreme court makes its final ruling. Then, in event the contention of the state is sustained, the Southern will take the case to the United States supreme court on writ of error for final hearing.

#### Important Case Tried At Dallas Court

Dallas, N. C., Sept. 17.—The criminal term of court came to a close Saturday court being an unusually long term, as the criminal portion of the court usually takes up only 3 or 4 days. The only case of interest was the case of Graham Fairar, who was tried for murder. The homicide occurred several years ago and Farrar immediately fled the state. He was captured in White Plains, N. Y., and was brought here

several months ago. He was found not guilty and was freed after he had been in jail quite a while. Hon. Oscar F. Mason and Mr. John while Solicitor Clarkson was assisted fractured arm. by 'Mr. F. F. Griffin. The suit of the Long Shoales Co. against the High Shoals Co. will be the first case to

-There will be a regular communication tonight of Charlotte Lodge, No. 392, B. P. O. Elks, in the lodge room over the Southern's up-town ticket

come up on the civil calendar.

#### First Spike Was Driven the sclubs.

Work Begins on The Fayetteville Street And Inter - Urban Railway-Many Spirited Citizens Make Speeches.

progressive southern town is enthusiastic and excited over the opening exercises incident to the amendment was going too far. He furdriving of the first spike and the nished statistics to the effect that only beginning of the laying of iron on the Fayetteville Street and Interurban Railway. A large crowd is in attendance, a band is playing and spirited addresses are being made by

The mayor and city aldermen, the bers of the industrial clubs, the clergymen and many ladies are in attendance.

Addresses have been made by F. R. Rose, secretary chamber of commerce, Messrs. A. H. Slocomb,

This is an important event in the history of this progressive city, which is so rapidly forging to the front

with other southern cities. This system is owned by W. D.

business men of this city. business houses will close in honor of the event.

## Thirty Persons Destroyed

Tokio, Sept. 17-Thirty persons were erful bombs. drowned and 100 houses burned this morning at Kosakabl mine.

The fire started in them ining works and while attempts were being made composing the staff of the political to save the mine the water reservoir police. was broken, flooding a portion of the

among the victims.

### EGYPT'S COTTON CROP.

\$150,000,000.

of Egypt, which exceeds seven mill- Roads, are on, the boats having lin, who has been a keeper on Black- he explained with an embarrassed gument, taking the position that the lon cantars (a cantar is a little over boats contesting are Dorothy, Capsiling and of the captar of the c making out of the hands of the cor- over all records of the past decade.

state and therefore, inoperative.

tional act cannot be suspended and that in the even the that in the even the rate act was ruled in the highest court to be constitutional then it will have been in efthis time. This to show the falacy of the injunction from the federal court, pending the adjudication of constitu-

tionality.

And, finally, the contention was laid

On review of the whole case counsel

## Train Wrecked HORRIBLE Fast Express

Easton, Pa., Sept. 17 .-- The Lehigh Valley express train, from Buffalo to New York, was wrecked early today near Pattenburg tunnel in New Jer

A number of trainmen and pasengers were injured, but none of the latter fatally.

The train was running at high speed when the locomotive jumped the track crashed into a telephone here and was and plunged into the mountain side. The engineer was injured internally

G. Carpenter appeared for the defense and the baggage master sustained a The passengers injured were riding

in the smoking car.

# Stop The Proselyting

New York, Sept. 17.—The Metropoli- chine swerved from side to side. an Association of the Amateur Athletic Union, at its annual meeting at the St. Bartholomew Athletic Club, adopted a resolution seeking to stop the proselyting evil among athletic

Bartow S. Weeks, presented the resolution which was a recommendation to the national body. It was the first step toward resenting athletic clubs. It stipulates that only college men who had a parental district resident should be eligible to wear the colors of the

local club. J. T. Mahoney, on behalf of the registration committee, went a step further with an amendment to the resolution Masked Burglars Bound opens next month and the case of Harry Thaw, charged with the murdebarring all college men from repre-Fayetteville, N. C., Sept. 17.—This senting athletic clubs while they are

in college. Weeks contended that the Mahoney in the East was the drafting of athletes practiced. Weeks said that the proper procedure was observed in the West, where whenever a college man represented a local club he was a bonifide resident of the district

The Mahoney amendment was finally carried by acclamation. It was stated that schools, colleges, or universities come under the ruling and will go

### Hon. E. J. Hale, Capt. J. D. McNeill, She Would Bea 'Walking Bomb'

St. Petersburg, Sept. 17.-The police her husband. arrested a young girl today, nicknamed "Wanda," acused of participation in Mr. and Mrs. Cole, both aged people, MeNeill, W. E. Kindley, and other a plot to blow up the headquarters of are in a serious condition. the secret police, situated on Moika ca-Promptly at 3 p. m. all of the nal, whose torture chambers have France Encouraged Over aroused bitter feelings on the part of the revolutionists.

The police claim "Wanda" planned to become a walking bomb and enter the headquarters building when gen-In Flood—Houses Burned erally full of police, wearing the uniform of a gendarmeric officer, with provement in the Moroccan situation objects of curiosity to him. and strong hope is entertained that the

> "Wanda," the police add, hoped by ing to ruins and kill all the officers,

The police in addition arrested a Jewish tailor in whose shop they seized

Free-for-All Races. Norfolk, Va., Sept. 17.-The "free-Is Largest in Past Decade-Worth for-all races" of yachts of 40 feet and under the Jamestown international Cairo, Sept. 17.—The cotton crop cup regatta series, off Hampton It is estimated to worth \$150, othy Q., Mattacheesit, Margaret B. William M. Tweed when Tweed was I'm always afraid that the things I boarding scholars in the college, be-

### Rowlands to Be Trued Sept. 30 nitely settled that the trial of Dr. and sion. Mrs. D. S. Rowland, on the charge of

tember Court week.

credited.

be tried at all.

make any statement other than con-

and her husband, is very strongly dis-

There are three other murder cases

pending for trial at the September term

be continued. One of them, Everit

Spence, is out on bond, another, Elvi-

ra Powell, an aged negro woman charge

ed with implication in an infanticide

is now a raving maniac and will hardly

New York, Sept. 17 .- When the

criminal branch of the supreme court

County Medical Society Meeting. The County Medical Society wi

years he had not had a glimpse of

pictures and papers he had been able

to obtain. He had never seen a trolley

car nor an automobile, and a skyscrap-

er was a marvel. Even the dresses

"This is a new world for me," he

said on reaching the city, five hours

and corner of the city, but the people

suddenly placed me in the heart of the city I would have been lost as

of the women today are novelties and

Tried In December

LAND DEVELOPMENTS

OFFICE BLOG AND DECAR COMP

INTER URBAN ELETRICATY

LAND DETER

LA

Colorado Springs, Colo., Sept. 17 .-A powerful racing automobile, occupied by seven prominent Elks and the chauffuer, and built to hold but three, while running at a terrific rate,

MISS "FLUFFY RUFFLES" CHARLOTTE.

wrecked Four of the occupants were killed out-right and the fifth was fatally wounded and the others more or less striously hurt.

The bodies of the dead were mangled almost beyond recognition. The men were returning from Mantiou. The car with its passengers, crowded into two seats, on hood and Evil In Athletics on steps, plunged at a terrific clip The driver lost control of the wheel and the powerful ma-

> Suddenly the front wheel struck ome object and the machine was thrown a distance of about 45 feet down the hill.

> The car probably would have been whirled down the hill for a still greater distance but for a telephone pole which barred the way.

## Thaw Will Probably Be Fought Robbers

And Gagged Man And Knocked Woman Unconscious Then Escaped District Attorney Jerome, it is understood will oppose an immediate With Booty.

Binghampton, N. Y., Sept. 17 .- Early yesterday three masked men enter- ber for the trial. ed the home of Harvey Cole, at Hickory Grove, Pa., and after holding him up at the point of revolvers bound and gagged him.

house when they were confronted by a number of physicians. into effect at the opening of the col- Mrs. Cole, who, with a chair, felled one of the men.

Another struck her with a black-jack Free From Cell. endering her unconscious and then continuing their search the burglars secured \$600 in cash and other valua-

les, with which they departed. Mrs. Cole did not regain consciousness for some time, when she untied

## The Moroccan Situation

Paris, Sept. 17.-The French govern-By Associated Press.

ment is greatly encouraged by the imrebellious tribes of men, whom the delegates who conferred with General after his release. "As a policeman 25 blowing herself up to reduce the build- Drude on Sunday are now consulting, years ago, I thought I knew every nook will agree to the peace terms. Delegates of the Moorish tribes are are different, the buildings new and so

expected to give final response of the big that I am bewildered. If you had tribesmen on Thursday. Another good feature of the situa-Many women and children were a half ready uniform intended for a tion is the definite agreement with the completely as if I had never been Moroccan war minister for the imme-

in the penitentiary.

heretofore. Many of the actions of the parolled diate installation of police at Tangier in accordance with the terms of the man were pathetic. Just after his release it was noticed that he was con-Algeciras convention. tinually fumbling in his pockets and taking out their contents. When he Old Prison Keeper Dead. New York, Sept. 17 .- John McLaugh saw that this was attracting attention

"I haven't had pockets in my clothes cum, Little Rhody, Eleanor and Dor- operation. He had direct charge of for 25 years and I'm not used to them. put in them will get lost."

## Many Members of Crew Of Battle Ship Killed By The Big Explosion

Financial And Commercial Conditions Are Good

New York, Sept. 17.—Two prominent capitalists interviewed here as to the present financial and commercial conditions and possible troubles ahead think alike that there is no cause for

Sir William C. Van Horne, chairman of the board of directors of the Canadian Pacific Railway Company, said: "The time has come when Wall street can no longer ignore the great prosperity that prevails throughout North America. Business will go

ahead, Wall street notwithstanding." "Of course, it is easy to predict any thing. Tight money might be the re sult of two things: it might come from lack of credit or because of the active conditions, the great activity in trade. The present tightness is caused by the lafter condition, but it is not hurting anybody. Richard C. Kerens, the St. Louis fi-

nancier, said: "A year ago the country was at flood ide of its greatest industrial prosperity. Then came a scarcity of labor followed by stringent money conditions and a recession in building and kindred enterprises. But this should not e called a depression.

"It is generally believed in the West that the worst has been passed for this season. An all-important consideration, however, is the crops. A few weeks more of favorable weather and a bumper crop will be assured. The yield of other cereals has been fair Ample money to move the corn crop seems to be forthcoming. Therefore, it may well be concluded that there will be nothing Raleigh, N. C., Sept. 17.—It is defilike a panic or even serious depres

#### Changes of Officials.

poisoning Mrs. Rowland's former hus-New York, Sept. 17.-It is said here band, C. R. Strange, will begin Septhat it will be months at least before tember 30, the second Monday of Sep-Gen. Leonard Wood assumes command of the department of the east in place Dr. and Mrs. Rowland have been of Gen. Fred D. Grant, who will then take command of the department of quietly in jail all this time. There have the lakes, with headquarters at Chicabeen reports that Mrs. Rowland intendgo. The change has been expected to ed to go on the stand and make a take place this year. But it is now unsensational statement with a view to derstood that the war department has gaining her liberty, but it is pointed out decided to keep Gen. Wood in the Philippines until after Secretary Taft's visthat being Dr. Rowland's wife, nothing it to the islands. that she might say could be used in When Gen. Wood leaves Manila it is

the prosecution of him. Altogether, the intention of the war department the report that the wife intended to to grant him an extended leave of absence which will begin on his arrival in the United States, probably late next

tinue to insist on the innocence of she January. Gen. Grant's transfer to Chicago has

#### of the court, the indication is, however, that at least one or two of them will Mr. T. J. Davis Resigns Office

His Resignation Now in similarly involved, he will prove by The Hands of Mayor S. S. McNinch—Pressure The Reason.

opens next month and the case of Mr. T. J. Davis, alderman from ward one, and chairman of the finance comder of Stanford White, is called, Martin W. Littleton, senior counsel mittee of the aldermanic board, has for the defense, will demand an im-mediate trial for the accused. decided to sever his connection with the city's government and yesterday afthe city's government and yesterday af- John D. Archbold, one of the individuternoon presented his written resignal al defendants in the government suit, tion to Mayor S. S. McNinch. Mr. It is believed that in the end both Davis, it is understood, did not give any reason for resigning, though it is sides will agree on a date in Decemsaid that his aldermanic duties, and Corporation Commission Orders S. A those resulting from his being head of will the finance committee, seriously intermeet at the city hall tonight at 8:30 fered with his business affairs. Mr. They then started to ransack the o'clock, when papers will be read by Davis is president of the Elba Manufacturing Company and the People's

Ice and Fuel Company.

Being in the hands of the mayor, it is not known at present what disposition will be made of the resignation, In New World though it is believed that it will be presented in an official way to the Fayetteville and other points, will be board of aldermen at its next meeting New York, Sept. 27.-After having or at a called meeting. Should it be ment. served a 25-year sentence in Sing Sing accepted the board will elect his sucprison, Michael Hackett, a former New cessor and also his successor as chair-York Policeman, is free, thanks to a man of the finance committee. The parole granted last week by the state remaining aldermen from ward one are board of pardons. Hackett entered the J. W. Wadsworth, W. I. Henderson and

prison in 1882 and during all these W. T. Hart. Mr. Davis, who went into office with the outside world, and all of his impres- the new administration, has made an sions had been formed from occasional efficient officer, both as alderman and chairman of the fiance committee. He succeeded Alderman J. W. Wadsworth as chairman of the finance committee, when Mr. Wadsworth resigned several months ago. Mr. Davis was one of the organizers and leaders of the Municipal League, which overturned the old city administration. He is an able business man, and his resignation, coming as a great surprise, will rob the present administration of one of its

#### Davenport College Opens Auspiciously

best equipped members.

Lenoir, N. C., Sept. 17.—Rev. R. P. Walker, pastor of the Baptist church, in Lenoir, is quite sick, but is improving slowly.

Davenport Female College is just be ginning what purports to be the most successful year's work in its history. There is in the neighborhood of 90

Five Officers And 22 Men Killed And Number Badly Injured In Disaster Aboard Battle Ship Kashima.

Cause of The Explosion is Being Investigated-Disaster Occurred After Target Practise-Gas Set Off Powder.

Tokio, Sept. 17 .-- Forty of the crew vere killed and injured on board the Japanese battleship Kashima by the explosion of a 12-inch shell within the shield after target practice on September 9th.

The casualties reported as a result of the explosion are as follows: Killed, five officers (names not givn) and 22 men.

Severely wounded, two officers and Slightly wounded, two officers and

six men. The cause of the explosion is under nvestigation.

It occurred inside of the shield of he star board. It was not the shell which exploded, but the powder which evidently caught fire from gas emitted from the breech which opened for the purpose of reload-

ing the gun.

The hull of the Kashima was not

### Suit To Dissolve Standard Oil Co

New York, Sept. 17 .- it is learned that when the taking of testimony begins here today before Ex-Judge Ferris, the special examiner in the govern-ment's suit to dissolve the Standard Oil Company, Frank B. Kellogg, the government's chief counsel, will tempt at once to prove the ownership and control of other corporations by the Standard Oil Company of New Jersey, the reputed holding company of the alleged trust. It is further understood that for this purpose he plans to make C. M. Prat, a director of the Standard Oil compnay the first witness. W. L. G. Rockofeller is likely

to be the second witness. Mr. Kellogg says that statements ordered by federal subpoenas will be used to show that a large number of corporations are owned and directed by the Standard Oil company of New Jersey. That other corporations are

direct testimony, he savs. Not all of the statements called for by the subpoenas have been received. but Mr. Kellogg expects them today. The taking of testimony before Exof Business Given as Judge Ferris in this city will take at least two weeks. About 25 witnesses have been subpoensed, and many more may be called.

Four additional subpoenaes have been served on H. E. Felton, traffic manager of the Standard Oil company; W. H. Tilford, treasurer of the company, H. M. Hanburn, a son-in law of and George Chesbro.

TO RE-ESTABLISH CONNECTION.

L. and A. C. L. to Provide Additional Facilities at Maxton.

Raleigh, N. C., Sept. 17 .- An order was issued by the corporation commission requiring that if necessary the Seaboard Air Line shall on and after October provide additional facilities so that the connection of its passenger trains from Charlotte to Wilmington at Maxton with the Atlantic Coast Line for Red Springs, maintained, in an elaborate state-

The blame is wholly saddled on the Seaboard because of breaking that connection to maintain connection at Hamlet with the Birmingham train. The Seaboard now promises to reestablish the connection Oct. 1st.

MR. KITCHIN AT WINSTON.

Over 500 People Hear Speech of Gubernatorial Candidate. Winston-Salem, N. C., Sept. 17 .-Congressman W. W. Kitchin, of the fifth district, and one of the leading candidates for the gubernatorial nomination, spoke in the courthouse here last night to an audience numbering 500 or more. The congressman spoke for an hour and fortyfive minutes and during his speech he was interrupted time and again by hearty applause. The Winston Concert Band furnished music.

#### Pres. Small Appeals For Aid For Strikers

Washington, D. C., Sept. 17 .- The appeal of President Small, of the Telegraphers' Union and President Gompers, of the American Federation of Labor to organized labor throughout the country for financial assitance to the striking telegraphers was isued today from Federation headquarters.